

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

\_\_\_\_\_  
JUAN MATEO,

Plaintiff,

-against-

EQUIFAX INFORMATION SERVICES LLC,  
BANK OF AMERICA, N.A., and COMENITY  
BANK,

Defendants.  
\_\_\_\_\_

**AZRACK, United States District Judge:**

For Online Publication Only

**ORDER**

22-cv-03560 (JMA) (SIL)

**FILED  
CLERK**

3:09 pm, Jul 09, 2024

**U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE**

By way of Complaint dated June 16, 2022, Plaintiff Juan Mateo commenced this consumer protection action against Defendants Bank of America, N.A. (“BANA”), Equifax Information Services LLC (“Equifax”), and Comenity Bank (“Comenity”), asserting claims of willful and negligent violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. (“FRCA”). (See ECF No. 1 (“Compl.”).) On November 10, 2022 and November 18, 2022 respectively, the Court dismissed Equifax and Comenity as parties pursuant to stipulations of dismissal. (See ECF Nos. 29–30; see also Order Dismissing Parties dated Nov. 10, 2022; Order Dismissing Parties dated Nov. 18, 2022.)

In September 2023, Plaintiff and Defendant BANA cross-moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure (“FED. R. CIV. P.”). (See ECF No. 47 (“Pl. Mot.”); see also ECF No. 50 (“Def. Mot.”).) On April 16, 2024, this Court referred the motions to Magistrate Judge Steven I. Locke for a Report and Recommendation (“R&R”). (See Electronic Order dated Apr. 16, 2024.)

Before the Court today is a R&R from Judge Locke (ECF No. 59), which recommends that

Plaintiff's motion for summary judgment be denied, Defendant's motion for summary judgment be granted, and Plaintiff's FCRA claims be dismissed. Judge Locke concluded that "Plaintiff's FCRA claims fail as a matter of law because: (1) Defendant furnished accurate information to the credit reporting agencies ('CRAs'); (2) Mateo has failed to offer proof of actual damages; and (3) Plaintiff lacks standing to pursue a claim for willful violation of the FCRA." (ECF No. 59, at 24.) No objections to the R&R have been filed; the time for doing so has expired. For the reasons stated below, the R&R is adopted in its entirety.

## I. LEGAL STANDARD

A district court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); see also FED. R. CIV. P. 72(b)(3); Grassia v. Scully, 892 F.2d 16, 19 (2d Cir. 1989). "Where parties receive clear notice of the consequences, failure to timely object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision." Smith v. Campbell, 782 F.3d 93, 102 (2d Cir. 2015) (quoting Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002)); see also Phillips v. Long Island R.R. Co., 832 F. App'x 99, 100 (2d Cir. 2021) (same). In the absence of any objections, "the district court need only satisfy itself that there is no clear error on the face of the record." Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd., 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011) (internal citations omitted). Clear error will be found only when, upon review of the entire record, the Court is "left with the definite and firm conviction that a mistake has been committed." United States v. Snow, 462 F.3d 55, 72 (2d Cir. 2006) (quoting United States v. Garcia, 413 F.3d 201, 222 (2d Cir. 2005)).

## II. DISCUSSION

The Court has carefully reviewed the record and the unopposed R&R for clear error and,

finding none, hereby adopts Judge Locke's well-reasoned and twenty-four paged R&R in its entirety as the opinion of the Court.

### **III. CONCLUSION**

Accordingly, Plaintiff's motion for summary judgment is DENIED, Defendant BANA's motion for summary judgment is GRANTED, and Plaintiff's FCRA claims are DISMISSED. The Clerk of Court is respectfully requested to enter judgment and close this case.

**SO ORDERED.**

Dated: July 9, 2024  
Central Islip, New York

/s/ JMA  
JOAN M. AZRACK  
UNITED STATES DISTRICT JUDGE